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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/582,292 06/23/00 LE GUEN

V Q59354

SUGHRUE MION ZINN  
MACPEAK & SEAS  
2100 PENNSYLVANIA AVENUE NW  
WASHINGTON DC 20037-3213

QM12/0926

EXAMINER

NGO, L

ART UNIT

PAPER NUMBER

3727

DATE MAILED:

09/26/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/582,292

Applicant(s)

Le Guen

Examiner

Lien Ngo

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 6-23-00
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the Declaration on 6/23/00. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2, 3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 2 and 3, "the latter" is vague and lacks antecedent basis. It is not clear what applicant intends to claim. And "the central pole" lacks antecedent basis.

In claim 5, "the supporting surface" lacks antecedent basis.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Pocock et al. (4,296,667).

In regard to claim 1, Pocock et al. disclose, in fig.5, a container having a cylindrical wall 21, and a petaloid -type base 26, 31. Said base comprises a convex wall 31 and outgrowth member 25. The convex wall comprises a hemispherical area (C-C) and a peripheral marginal area (A-C) having a curve (AB; BC) with an inflection B. The base wall and the marginal area as well as the cylindrical wall and the peripheral area are linked in an almost tangential manner (see point C and A).

In regard to claim 2 and 3, the outgrowth members are linked with the hemispherical wall in a roughly tangential member (at point D) in immediate proximity.

In regard to claims 4-6, the curve radius (R1) of the hemispherical wall is between 80%-120% of the radius of the cylindrical wall (R2). The container further comprises a clearance (under point D), and a support surface 25. The top end of the members is linked with the cylindrical wall in an almost tangential member (at point A).

(Note that labels A,B,C,D, R1 and R2 are noted in fig. 5 by examiner for a better illustration.)

6. Claims 1, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Motill (4,368,825).

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In regard to claim 1, Motill discloses, in figs. 3, 7 and 9, a container having a cylindrical wall 3, and a petaloid -type base 6, 7. Said base comprises a convex wall 6 and outgrowth member 7. The convex wall comprises a hemispherical area (C-C) and a peripheral marginal area (A-C) having a curve (AB; BC) with an inflection B. The base wall and the marginal area as well as the cylindrical wall and the peripheral area are linked in an almost tangential manner (see point C and A).

In regard to claims 5, 6 and 7, the container further comprises a clearance (under point D), and a support surface (foot 7). The top end of the members is linked with the cylindrical wall in an almost tangential member (at point A). The container further comprises a shoulder 2, a collar and a neck 1.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Allan Shoap, can be reached at (703)308-1082. The Group FAX number is (703) 305-3597.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.

Lien Ngo

September 21, 2001

  
Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700